

## Strata Living

Headline: Who is responsible for deck membranes?

Topic: Balconies & Decks

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**Dear Tony:** Our strata is having a dispute over who is responsible for the deck membranes on our balconies. We have a bylaw that requires owners to maintain limited common property, and the council insist that this includes replacing the decking membranes, many of which are damaged and long past their due date. Is there an easy method to understand how to determine who is responsible?

*Gloria G. Langley*

**Dear Gloria:** The process to determine who is responsible for limited common property is in 2 parts. First obtain a copy of the registered strata plan and the strata general index from the Land Title Registry. If the area was designated as limited common property by the owner developer or the strata by three quarters vote at a later date, the designation of limited common property would show up on either document. If the area is common property, the strata is not permitted to make an owner responsible for the repair and maintenance of common property, so problem easily solved. If the area is designated as limited common property, the next step is to review the bylaws. The Standard Bylaws of the *Strata Property Act* define the responsibility of limited common property to only those duties that occur once a year or more frequent. Basically that is custodial duties such cleaning, washing, keeping drains clear. Next check your strata bylaws filed in the Land Title Registry. It is possible that the bylaws have imposed a higher obligation on the owners, such as painting, membrane repairs and replacement. This will help your

strata understand who is responsible. I checked both your strata plan and the bylaws, and in your strata, the balconies are limited common property, but the duty to maintain and repair balconies and membranes is specifically the obligation of your strata corporation. There is some logic to this result. Exterior maintenance and repairs of building components is always best left to the collective ownership. The strata can directly control the standards of maintenance and repair and by negotiating multiple contracts and service at the same time greatly benefits from the quantities of scale for price and project construction. Overall, individual costs are significantly reduced and the strata is not spending their time trying to enforce maintenance bylaws or dealing with damages caused by deferred maintenance or construction.

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